



Home > Child safe
organisations > Reportable
conduct scheme > Employers
FAQ > Legal definitions

Reportable conduct legal definitions

Terms and definitions under the Reportable Conduct Scheme

Term	Section of Act	Definition
Reportable conduct scheme	11	The scheme established under Part 4 of the Act to investigate reportable allegations and make determinations in relation to reportable conviction
Relevant entity	12	(a) Schedule 1 entity (b) a public authority (c) a religious body

Term	Section of Act	Definition
Schedule 1 entity	13	<p>(a) an entity mentioned in Schedule 1 of the Act</p> <p>(b) an authorised carer that is not employed by, or in, an entity mentioned in Schedule 1 of the Act</p> <p>(c) an adult who, under s 10 of the Child Protection (Working with Children) Act 2012 is required to hold a working with children check clearance because the adult resides on the same property as an authorised carer for 3 weeks or more</p> <p>(d) an entity, or part of an entity, prescribed by the regulations for this definition</p>

Term	Section of Act	Definition
Public authority	14	<p>(a) a government sector agency within the meaning of the Government Sector Employment Act 2013</p> <p>(b) a person specified in section 5(1)(a), (b) and (d)–(f) of the Government Sector Employment Act 2013</p> <p>(c) a local government authority</p> <p>(d) a statutory body representing the Crown</p> <p>(e) a statutory officer</p> <p>(f) a body, whether incorporated or unincorporated, established for a public purpose under the provisions of a legislative instrument</p> <p>(g) a State-owned corporation</p> <p>(h) a university established under an Act</p>

Term	Section of Act	Definition
		<p>(i) an Aboriginal Land Council within the meaning of the Aboriginal Land Rights Act 1983</p> <p>(j) an entity, or part of an entity, declared by the regulations to be a public authority for this definition.</p>
Local government authority	15	A council, county council or joint organisation under the Local Government Act 1993

Term	Section of Act	Definition
Employee	16	<p>Employee, of a relevant entity, means:</p> <p>(a) for a Schedule 1 entity—</p> <p>(i) an individual employed by, or in, the Schedule 1 entity</p> <p>(ii) if the entity is an individual—the individual</p> <p>(iii) if an individual is engaged directly, or by a third party, as a volunteer to provide services to children—the volunteer</p> <p>(iv) if an individual is engaged directly, or by a third party, as a contractor and the contractor holds, or is required to hold, a working with children check clearance for the purpose of the engagement—the contractor</p>

Term	Section of Act	Definition
		<p>(b) for a public authority—</p> <p>(i) an individual employed by, or in, the public authority, or</p> <p>(ii) if the public authority is an individual—the individual, or</p> <p>(iii) if an individual is engaged directly, or by a third party, as a volunteer to provide services to children—the volunteer, or</p> <p>(iv) if an individual is engaged directly, or by a third party, as a contractor and the contractor holds, or is required to hold, a working with children check clearance for the purpose of the engagement—the contractor.</p> <p>For a public authority, a person is also an employee of the authority if—</p>

Term	Section of Act	Definition
		<p>(a) the person exercises official functions or acts in a public official capacity in the service of the authority, or</p> <p>(b) the person is otherwise in the service of the Crown.</p> <p>Also, for the purposes of this Part 4, an employee includes—</p> <p>(a) a visiting health practitioner (as defined in the Health Practitioner Regulation National Law (NSW)) if the visiting health practitioner holds, or is required to hold, a working with children check clearance for the purpose of appointment with the entity</p> <p>(b) a person employed under Part 2 of the Members of Parliament Staff Act 2013, and the person is taken to be an employee of a public authority.</p>

Term	Section of Act	Definition

Term	Section of Act	Definition
<p>“Head” of relevant entity</p>	<p>17</p>	<p>(a) for an entity that is a Department—the Secretary of that Department or the Secretary’s delegate</p> <p>(b) if the regulations prescribe a person or a class of persons as the head of the entity—the prescribed person or a person belonging to the class of persons prescribed</p> <p>(c) otherwise—</p> <p>(i) the chief executive officer of the entity, however described, or</p> <p>(ii) if there is no chief executive officer, the principal officer of the entity, however described, or</p> <p>(iii) if there is no chief executive officer or principal officer, a person approved by the Children’s Guardian under section 66.</p>

Term	Section of Act	Definition
		(2) In relation to a person employed under Part 2 of the Members of Parliament Staff Act 2013 by a member of Parliament, the member of Parliament is taken to be a public authority and the head of the authority.

Term	Section of Act	Definition
Reportable allegation	18	<p>In relation to an employee of a Schedule 1 entity, means an allegation that the employee has engaged in conduct that may be reportable conduct, whether or not the conduct is alleged to have occurred in the course of the employee’s employment with the Schedule 1 entity.</p> <p>In relation to an employee of a public authority, means—</p> <p>(a) if the employee holds, or is required to hold, a working with children check clearance for the purpose of employment with the public authority—an allegation that the employee has engaged in conduct that may be reportable conduct, whether or not the conduct is alleged to have occurred in the course of the employee’s employment, or</p> <p>(b) if the employee is not required to</p>

Term	Section of Act	Definition
		hold a working with children check clearance for the purpose of employment with the public authority—an allegation that the employee has engaged in conduct that may be reportable conduct, unless the conduct is alleged to have occurred outside the course of the employee’s employment with the public authority

Term	Section of Act	Definition
Reportable conviction	19	<p>A conviction, including a finding of guilt without the court proceeding to a conviction, in this State or elsewhere, of an offence involving reportable conduct—</p> <p>(a) in relation to an employee of a Schedule 1 entity—whether or not the conduct occurred in the course of the employee’s employment with the Schedule 1 entity</p> <p>(b) in relation to an employee of a public authority—</p> <p>(i) if the employee holds, or is required to hold, a working with children check clearance for the purpose of employment with the public authority—whether or not the conduct occurred in the course of the employee’s employment</p> <p>(ii) if the employee is not required to</p>

Term	Section of Act	Definition
		hold a working with children check clearance for the purpose of employment with the public authority —unless the conviction relates to conduct that occurred outside the course of the employee’s employment with the public authority

Term	Section of Act	Definition
Reportable conduct	20	<p>The following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded—</p> <ul style="list-style-type: none"> (a) a sexual offence (b) sexual misconduct (c) ill-treatment of a child (d) neglect of a child (e) an assault against a child (f) an offence under section 43B or 316A of the Crimes Act 1900 (g) behaviour that causes significant emotional or psychological harm to a child.

Term	Section of Act	Definition
Sexual offence	21	An offence of a sexual nature under a law of the State, another State, a Territory, or the Commonwealth, committed against, with or in the presence of a child
Sexual misconduct	22	<p>Conduct with, towards or in the presence of a child that—</p> <p>(a) is sexual in nature, but</p> <p>(b) is not a sexual offence.</p>
Ill-treatment	23	Of a child, means conduct towards a child that is unreasonable and seriously inappropriate, improper, inhumane or cruel

Term	Section of Act	Definition
Neglect	24	<p>Of a child, means a significant failure to provide adequate and proper food, supervision, nursing, clothing, medical aid or lodging for the child, that causes or is likely to cause harm to a child, by—</p> <p>(a) a person with parental responsibility for the child, or</p> <p>(b) an authorised carer of the child, or</p> <p>(c) an employee, if the child is in the employee’s care</p>
Assault	25	<p>(a) The intentional or reckless application of physical force without lawful justification or excuse, or</p> <p>(b) Any act which intentionally or recklessly causes another to apprehend immediate and unlawful violence</p>

Term	Section of Act	Definition
Finding of reportable conduct	26	A finding, by a relevant entity or the Children's Guardian, as a result of an investigation conducted under this Part, that a reportable allegation is sustained